

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

TAVIST HAWKINS,

Plaintiff,

v.

No. 2:19-cv-01190-JCH-CG

KELLY J. CALICOAT and  
ROBERT PEROZYOSKI,

Defendants.

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**

**THIS MATTER** comes before the Court on Plaintiff's failure to respond to the Court's Memorandum Opinion and Order Granting Leave to Proceed In Forma Pauperis and to Show Cause, Doc. 4, filed January 10, 2020 ("Order to Show Cause").


Plaintiff is proceeding *in forma pauperis*. The statute governing proceedings *in forma pauperis* states "the court shall dismiss the case at any time if the court determines that ... the action ... fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2); *see also Webb v. Caldwell*, 640 Fed.Appx. 800, 802 (10th Cir. 2016) ("We have held that a pro se complaint filed under a grant of *ifp* can be dismissed under § 1915(e)(2)(B)(ii) for failure to state a claim ... only where it is obvious that the plaintiff cannot prevail on the facts he has alleged and it would be futile to give him an opportunity to amend").

Plaintiff is a defendant in two state-court misdemeanor cases presided over by Defendant Calicoat, a state court judge, and prosecuted by Defendant Perozyoski, a state assistant district attorney. Plaintiff seeks monetary damages pursuant to 42 U.S.C. § 1983 and dismissal of the state-court cases. The Court notified Plaintiff that the Complaint failed to state a claim for monetary damages against Defendants because they are immune from monetary damages claims.

*See* Order to Show Cause at 3-4. The Court also notified Plaintiff that the Complaint does not allege sufficient facts showing that the Court has jurisdiction to dismiss the state cases. *See* Order to Show Cause at 4-5. The Court granted Plaintiff leave to file an amended complaint that states a claim, ordered Plaintiff to show cause why the Court should not abstain from exercising jurisdiction pursuant to the *Younger* abstention doctrine and the *Rooker-Feldman* doctrine, and notified Plaintiff that failure to timely file an amended complaint and failure to timely show cause may result in dismissal of this case. *See* Order to Show Cause at 5.

Plaintiff did not file an amended complaint and did not show cause why the Court should not abstain from exercising jurisdiction pursuant to the *Younger* abstention doctrine and the *Rooker-Feldman* doctrine by the January 31, 2020, deadline.

**IT IS ORDERED** that this case is **DISMISSED without prejudice**.

  
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**SENIOR UNITED STATES DISTRICT JUDGE**